

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

DON KING PRODUCTIONS, INC.

Plaintiff

v.

EL CERRITO RESTAURANT, et al.

Defendants

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**Civil No. 04-2325(SEC)**

**OPINION AND ORDER**

On May 31, 2005 the Court referred Plaintiff's motion for default judgment to Magistrate Judge Aida Delgado-Colón for a Report and Recommendation (Dockets ## 12-13). Then, on August 1, 2005 Magistrate Delgado-Colón issued her Report, recommending that default judgment be entered against Co-defendants El Cerrito Restaurant, Lydia Sánchez a/k/a Lidia Sánchez, and the Conjugal Partnership of Lydia Sánchez and Fulano de Tal. Magistrate Delgado-Colón further recommended that judgment be entered against said Co-defendants, jointly and severally, in the amount of \$107,400 and that Plaintiff be awarded attorneys' fees totaling \$2,200 and costs totaling \$500 (Docket # 14). To date, the parties have not filed any objections to the Magistrate's Report and the time allotted for doing so has expired. Therefore, the Court will **APPROVE** and **ADOPT** the Magistrate's Report and Recommendation as our own.

**Standard of Review**

Pursuant to 28 U.S.C. §§ 636(b)(1)(B), Fed. R. Civ. P. 72(b) and Local Rule 72(a) for the District of Puerto Rico, a District Court may refer motions to a United States Magistrate Judge for a Report and Recommendation. See Alamo Rodríguez v. Pfizer Pharmaceuticals, Inc., 286 F. Supp. 2d 144, 146 (D.P.R. 2003). The adversely affected party can "contest the Magistrate Judge's report and recommendation by filing objections 'within ten days of being served' with a copy of the order." United States of America v. Mercado-Pagán, 286 F. Supp. 2d 231, 233 (D.P.R. 2003) (quoting 28 U.S.C. § 636(b)(1)). Aside from being filed in a timely manner, objections "shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the legal basis for such

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objection.” Local Rule 72(d).

The scope of review of a Magistrate’s recommendation is set forth in 28 U.S.C. § 636(b)(1)(c). This section provides that “[a] judge of the [district] court shall make a de novo determination of those portions of the report or specified findings or recommendations to which [an] objection is made.” Id. The Court can “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate,” however, if the affected party fails to timely file objections, “the district court can assume that they have agreed to the magistrate’s recommendation.” Alamo-Rodríguez, 286 F. Supp. 2d at 146 (quoting Templeman v. Chris Craft Corp., 770 F.2d 245, 247 (1<sup>st</sup> Cir. 1985)). Thus, no review is required of those issues to which objections are not timely raised. Thomas v. Arn, 474 U.S. 140 (1985), reh’g denied, 474 U.S. 1111 (1986); Borden v. Sec’y of Health & Human Servs., 836 F.2d 4, 6 (1<sup>st</sup> Cir. 1987). In fact, a party who fails to file any objections to the Magistrate Judge’s Report and Recommendation within ten days of its filing waives his or her right to appeal from the district court’s order. Henley Drilling Co. v. McGee, 36 F.3d 143, 150-51 (1<sup>st</sup> Cir. 1994); United States v. Valencia-Copete, 792 F.2d 4, 5 (1<sup>st</sup> Cir. 1986); Davet v. Maccarone, 973 F.2d 22, 30-31 (1<sup>st</sup> Cir. 1992) (“[f]ailure to raise objections to the Report and Recommendation waives that party’s right to review in the district court and those claims not preserved by such objection are precluded on appeal”).

### **Analysis**

The parties have not objected to the Magistrate Judge’s Report and Recommendation, thus we are not required by law to review it. However, upon review, we find no fault with Magistrate Judge Delgado-Colón’s assessment and thus **APPROVE** and **ADOPT** her Report and Recommendation as our own. Accordingly, Judgment will be entered as recommended.

### **SO ORDERED.**

In San Juan, Puerto Rico, this 19<sup>th</sup> day of August, 2005.

S/ *Salvador E. Casellas*  
SALVADOR E. CASELLAS  
U.S. Senior District Judge